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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,858	05/22/2001	Robert B. Chaffee	C0852/7013 JNA	8373

37462 7590 03/27/2006

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/862,858

Applicant(s)

CHAFFEE, ROBERT B.

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-40,55-58 and 60-73 is/are pending in the application.
- 4a) Of the above claim(s) 16,17,35-40,56-58,60 and 61 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-27 is/are allowed.
- 6) ☒ Claim(s) 1-7,9-15,30-34,55 and 62-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

Applicant's election with traverse of Invention I, claims 1-15, 18-34, 55, and 62-73 in the reply filed on 1/25/06 is acknowledged. The traversal is on the ground(s) that Inventions I and II are not properly related as a combination subcombination. This is not found persuasive because it is shown that the combination represented by Invention II as claimed does not require the particulars of the subcombination represented by Invention I as claimed for patentability. The device adapted to contain fluid does not require a depressible latch retaining a fastening element with a lateral surface and configured to inhibit the fastening element from being removed from the housing that is sized and connected to a bladder absent a direct external force applied to the fastener to depress the depressible latch (claims 1, 13, and 62) and a retaining lip having a second surface, at least a portion of the second surface being substantially parallel to the first surface, a first portion to which pressure is applied when the fastening element is moved into engagement with the fastener and a second portion comprising a third surface disposed intermediate the first surface and the second surface upon which the fastening element rest when in an engaged position, at least a portion of the third surface being substantially parallel to the first surface (claim 18). Furthermore, invention I has separate utility such as a clasp for an article of clothing.

If two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted. Such requirement is normally be made before any action on the merits; however, it may be made at any time before final action.

For purposes of the initial requirement, a serious burden on the examiner may be prima facie shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02.

In the instant case, Invention I drawn to a fastening element is classified in class 24, subclass 326. Class 24 provides for separable fasteners that have become so varied in use and so allied in structure as to belong to no specific art, but are novel only as to their structures.

Invention II drawn to a device adapted to contain a fluid is classified in class 5 subclass 655. Class 5 relates to devices intended to receive the human body in a prone, supine, or sitting position for the purpose of repose, examination, or treatment.

The requirement is still deemed proper and is therefore made FINAL.

Claims 16-17, 35-40, 56-58, and 60-61 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 1/25/06.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/30/05 has been entered.

***Specification***

The disclosure is objected to because of the following informalities: The reference numeral 20 is used to indicate the latch and the bladder (see page 7 lines 17 and 20). Appropriate correction is required.

***Claim Objections***

Claims 1-2, 9-11, 13, 62-63, and 73 are objected to because of the following informalities: The Applicant recites "depressable" (incorrect spelling). Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 9-15, 30-34, 55, 62-64, and 66-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,519,380 to Kochanski in view of U.S. Pat. No. 1,423,590 to Zimmerman.

In reference to claims 1, 13, and 62, Kochanski discloses a fastener having a depressible latch 14 (col. 2 lines 79-84) retaining a fastening element by interference with a lateral surface of the fastening element (fig. 8) wherein the depressible latch is configured such that the fastening element is inhibited from being removed from the housing absent a direct external force applied to the fastener to depress the depressible latch (col. 2 lines 86-96). Kochanski fails to disclose a housing sized and adapted to retain a fastening element. Zimmerman discloses a fastener comprising a housing 2 sized and adapted to mate with a fastening element 4 wherein the housing is formed from a sheet metal that is inherently flexible (col. 2 lines 83-92). It would have been obvious for one having ordinary skill in the art at the time of the invention to have the fastener of Kochanski with a housing as taught by Zimmerman in order to further prevent the fastening element from being accidentally disconnected from the fastener.

Regarding claims 2 and 63, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Zimmerman discloses a flange 1 and wherein the housing and the latch are both connected to the flange.

Regarding claims 3 and 64, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Zimmerman discloses the flange is configured so that it can be connected to a sheet of material (col. 2 lines 78-82).

Regarding claims 5 and 66, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Zimmerman discloses the housing comprises a side wall 11 and a retaining lip (12,13).

Regarding claims 6 and 67, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Zimmerman discloses the retaining lip (12,13) defines a downwardly extending notch to accommodate a fastening element attachment mechanism (fig. 1).

Regarding claims 7 and 68, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Zimmerman discloses the side wall 11 comprising a semi-circular section (fig. 1).

Regarding claims 9 and 69, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Kochanski further discloses the latch is flexible (col. 2 lines 80-92).

Regarding claims 10 and 70, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Zimmerman discloses the latch

defines a flange generally parallel to a base of the housing and projecting towards the interior of the housing (fig. 1).

Regarding claims 11 and 71, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 22 as discussed above, and Kochanski further discloses the latch defines a protrusion 15 having a portion corresponding to the shape of the fastening element (fig. 8).

Regarding claims 12 and 72, Kochanski in view of Zimmerman discloses the fastener of claims 1 and 62as discussed above, and Zimmerman further discloses the fastener is formed out of a sheet of metal (col. 2 lines 83-93).

Regarding claim 14, wherein the fastening element is flexible (col. 2 lines 83-92)(Zimmerman).

Regarding claim 15, Kochanski in view of Zimmerman discloses the fastener of claim 13 as discussed above. Kochanski fails to disclose the housing being flexible. The flexibility of sheet metal is well known and it would have been obvious to construct the entire socket from a sheet metal that is flexible in order to provide a resilient latch to releasably hold the fastening element of Kochanski.

Regarding claim 30, Kochanski in view of Zimmerman discloses the fastener of claim 13 as discussed above, and Zimmerman discloses the housing comprises a side wall 11 and a retaining lip 12.

Regarding claim 31, Kochanski in view of Zimmerman discloses the fastener of claim 13 as discussed above, and Zimmerman discloses the retaining lip comprises a notch 8 to accommodate a fastening element attachment mechanism.



Regarding claim 32, Kochanski in view of Zimmerman discloses the fastener of claim 13 as discussed above, and Zimmerman discloses the side wall 11 comprises a semicircular section.

Regarding claim 33, Kochanski in view of Zimmerman discloses the fastener of claim 13 as discussed above, and Kochanski discloses the latch comprises a portion 15 corresponding to a shape of the fastening element.

Regarding claim 34, Kochanski in view of Zimmerman discloses the fastener of claim 13 as discussed above, and Kochanski discloses the latch is depressible and is positioned relative to the housing to retain the fastening element by interference with a lateral surface of the fastening element (col. 2 lines 74-96).

Regarding claim 55, Kochanski in view of Zimmerman discloses the fastener of claim 13 as discussed above, and Kochanski discloses the fastener is attached to an object and the latch is depressible in the direction of the object (col. 2 lines 74-96).

Regarding claim 73, Kochanski in view of Zimmerman discloses the fastener of claim 62 as discussed above, and Kochanski discloses that the depressible latch is accessible such that an external force can be applied by an operator's finger to depress the latch (col. 2 lines 86-96).

Claims 1-4, 13, 28, and 62-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,946,726 to Green in view of U.S. Pat. No. 1,519,380 to Kochanski, and further in view of U.S. Pat. No. 1,423,590 to Zimmerman.

Claims 1, 13, and 62, Green discloses a plastic fastening assembly 30 comprising a fastening element such as a clasp (col. 3 lines 40-42). Green fails to disclose a fastener comprising a depressible latch. Kochanski discloses a fastener having a depressible latch 14 (col. 2 lines 79-84) retaining a fastening element by interference with a lateral surface of the fastening element (fig. 8) wherein the depressible latch is configured such that the fastening element is inhibited from being removed from the housing absent a direct external force applied to the fastener to depress the depressible latch (col. 2 lines 86-96). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a depressible latch as taught by Kochanski with the clasp of Green in order to detachably fasten adjacent edges of the bust support of Green. Green also fails to disclose a housing sized and adapted to retain a fastening element. Zimmerman discloses a fastener comprising a housing 2 sized and adapted to mate with a fastening element 4 wherein the housing is formed from a sheet metal that is inherently flexible (col. 2 lines 83-92). It would have been obvious for one having ordinary skill in the art at the time of the invention to have the fastener of Green with a housing as taught by Zimmerman in order to further prevent the fastening element from being accidentally disconnected from the fastener.

Regarding claims 2 and 63, Green in view of Kochanski, and further in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Zimmerman discloses a flange 1 and wherein the housing and the latch are both connected to the flange.

Regarding claims 3 and 64, Green in view of Kochanski, and further in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Zimmerman discloses the flange is configured so that it can be connected to a sheet of material (col. 2 lines 78-82).

Regarding claims 4, 28, and 65, Green in view of Kochanski, and further in view of Zimmerman discloses the fastener of claims 1 and 62 as discussed above, and Green discloses the sheet of material comprising a thermoplastic material. Kochanski is silent to the flange of the clasp being made of thermoplastic and heat sealed. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a thermoplastic and heat seal the flange of the plastic clasp of Green to the thermoplastic fabric sections in order to ensure the clasp does not break away from the edges of the fabric.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,946,726 to Green in view of U.S. Pat. No. 1,519,380 to Kochanski, U.S. Pat. No. 1,423,590 to Zimmerman, as applied to claims 1-4, 13, 28, and 62-65 above, and further in view of 6,058,507 to Klimenko.

Regarding claim 13, Green in view of Kochanski in view of Zimmerman discloses the fastener of claim 13 as discussed above. Green fails to disclose an inflatable bladder. Klimenko discloses clothing having an inflatable bladder (col. 1-2 lines 60-68 & 1-6). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ an inflatable bladder as taught by Klimenko (col. 1 lines 56-59) in order to increase the comfort, add buoyancy, and provide aesthetic appeal to the clothing of Green.

#### ***Allowable Subject Matter***

Claims 18-27 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed 10/22/04 have been fully considered but they are not persuasive.

With regards to the Applicant's argument Kochanski does disclose the fastening element inhibited from escaping absent a direct external force, such as a finger, to depress the latch 14 (col. 2 lines 84-90). Kochanski clearly discloses the fastening element is disconnected by applying a sufficient direct force to force back the

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latch/tongue as the head of the button/fastening element is moved past the latch.

Furthermore, Kochanski discloses that the latch prevents/inhibits the fastening element from being accidentally disconnected from the button securing member. It is only after a sufficient direct force, such as a person using their fingers is applied to remove the fastening element. Contrary to the Applicant's argument the term direct fails to convey that the external force is not provided through the fastening element. However, a person can merely apply a direct force to button engaging portions 13 of Kochanski which would depress the tongue and allow the removal of the button wherein the external force is not provided through the fastening element. Furthermore, the Applicant's recitation that the fastening element is inhibited from being removed from the housing absent a direct external force applied to the fastener to depress the latch fails to clearly distinguish over Kochanski since the direct external force as broadly recited can come from either the fastening element or a persons fingers depending on the width of the slot to the width of a persons fingers. The Applicant should amend the claim to provide structural limitations that are not shown by either Kochanski or Zimmerman, such as the depressable latch extending outwardly past a side wall of the housing in a spaced relationship thereto such that the direct external force can be applied by an operator's finger to depress the latch.

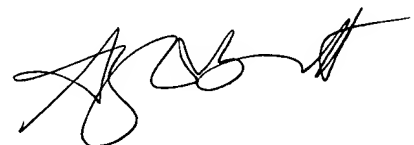
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC  

Suzanne Dino Barrett  
Primary Examiner